

Public Chapter 178

HOUSE BILL NO. 1814

By Representatives Kisber, Kent, McDaniel, Stamps, Davis, Chumney, Miller, John DeBerry, Ulysses Jones, Bowers, Lois DeBerry, Haley, Hargett, Scroggs, Hassell

Substituted for: Senate Bill No. 1703

By Senators McNally, Gilbert, Fowler, Atchley, Elsea, Person, Leatherwood, Jordan, Miller, Ramsey, Carter, Crowe, Koella, Dixon, Ford, Kyle, Cohen

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 6, Part 2, to provide for a credit for sales and use taxes paid on building materials, machinery, and equipment for new or expanded facilities for corporate headquarters located in Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding a new section as follows:

(a) Notwithstanding other provisions of this chapter, there shall be a credit of all state sales or use taxes paid to the State of Tennessee, except tax at the rate of one-half percent (.5%), on the sales or use of building materials, machinery and equipment used in a "qualified, new or expanded headquarters facility." The credit shall apply only to building materials, machinery and equipment used exclusively in the qualifying facility and purchased or leased during the investment period described below. Supplies; repair parts; and replacement materials, machinery or equipment; shall not be entitled to the credit, nor any payments with respect to leases of qualifying tangible personal property which extend beyond the investment period described below.

(1) A "qualified, new or expanded headquarters facility" means a facility in this state that houses the international, national or regional headquarters of a corporation, newly constructed or expanded through a minimum investment by the corporation or a lessor to the corporation of fifty million dollars (\$50,000,000) in the qualifying facility, exclusive of land and inventory. The investment must be made during the period beginning one year prior to the start of the construction or expansion and ending one year after substantial completion of the construction or expansion of the facility, but in no event shall the period exceed six years. An expanded headquarters facility may be connected or separate from a headquarters facility or other facilities located in this state. The facility must be utilized as a corporate headquarters or an expansion to a corporate headquarters for a period of at least ten (10) years.

(2) A corporation qualifying for this credit (and also the lessor of the corporation in the case of a leased facility) must be subject to the taxes imposed by chapter 4, parts 8 and 9 of this title. The corporation shall not be permitted to take advantage of any additional sales tax or

other state tax credits, exemptions or reduced rates which would otherwise be available as a result of the same purchases or minimum investment; except the tax credit provided under § 67-4-908(c). A corporation qualifying for this reduced rate shall also not be permitted to utilize the credits available to hospital companies under § 67-4-808.

(3) A new or expanded facility houses a corporation's international, national or regional headquarters if a majority of the employees working at the facility are engaged primarily in administrative, planning, research and development, marketing, personnel, legal, computer or telecommunications services on an international, national or regional basis. For purposes of this subsection, regional means a geographic area comprised of at least Tennessee and one or more of its contiguous states.

(4) To qualify for this credit, the corporation (and also the lessor of the corporation in the case of a leased facility) shall submit an application to the commissioner for the credit together with a plan describing the investment to be made. The application and plan shall be submitted on forms prescribed by the commissioner. The plan shall demonstrate that the requirements of the law will be met. After approval of the general request and investment plan that demonstrates that the applicant will meet the requirements of the law, the corporation may submit a request for credit of sales or use taxes documented to have been paid by the corporation, lessor or their contractors on specific building materials, machinery and equipment used in a "qualified, new or expanded headquarters facility." The claim for credit may only be taken by the corporation establishing the "qualified new or expanded headquarters facility".

(5) If the requisite investment is not made in the time period required, or the terms of this section are not met, the corporation and also the lessor in the case of a leased facility shall be subject to assessment for any tax, penalty or interest which would otherwise have been due. The statute of limitations shall not begin to run on these assessments until all the time requirements of this section are met.

(b) Credits under this section shall not reduce the taxes earmarked and allocated to education pursuant to Section 67-6-103(c)(1).

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it; shall apply to investments and purchases made on or after January 1, 1997; and shall expire and cease to be of any effect for plans submitted after December 31, 2002.